



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 6, 2000

### **H.R. 4857** **Social Security Number Privacy and** **Identity Theft Prevention Act of 2000**

*As ordered reported by the House Committee on Ways and Means  
on September 28, 2000*

#### **SUMMARY**

H.R. 4857 would address the increasing use of the Social Security number (SSN) for personal identification by limiting the sale, purchase, display, and uses of the number. It would tighten procedures for obtaining an SSN and impose or stiffen criminal and civil penalties for misuse. H.R. 4857 would also strengthen the supervision of representative payees (people who receive benefit checks belonging to others, such as children or mentally-impaired adults) and make several, mostly technical, amendments to the Social Security Act. In addition, the bill would eliminate the payment of Social Security and Medicare Hospital Insurance (HI) benefits related to non-cash compensation earned by members of the armed forces, and the associated annual payment from the Department of Defense (DoD) to the Social Security and Medicare trust funds.

CBO estimates that enacting H.R. 4857 would increase direct spending by \$2 million in 2001 and by negligible amounts thereafter. It would also lead to slight increases in receipts from penalties. Because H.R. 4857 would affect direct spending and receipts, pay-as-you-go procedures would apply.

H.R. 4857 would also affect discretionary spending. DoD would save up to \$400 million annually that it now pays to the Social Security and Hospital Insurance trust funds. In addition, the bill would cause the Social Security Administration (SSA) and the Federal Trade Commission (FTC) to incur a total of about \$30 million a year in additional enforcement costs.

H.R. 4857 contains a number of intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), including limitations on the sale, display, and use of Social Security numbers by state or local governments. CBO estimates that the aggregate costs of those mandates would exceed the threshold established in UMRA (\$55 million in 2000, adjusted annually for inflation) in at least one of the next five years.

The bill contains several private-sector mandates on businesses that now use Social Security numbers. CBO estimates that the costs of complying those mandates would significantly exceed the threshold for private-sector mandates specified in UMRA (\$109 million in 2000, adjusted annually for inflation).

## **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of H.R. 4857 is shown in Table 1. This legislation affects multiple budget functions—chiefly 050 (national defense), 600 (income security), 650 (Social Security), and 950 (undistributed offsetting receipts).

## **BASIS OF ESTIMATE**

CBO assumes that H.R. 4857 will be enacted in October 2000, and that the authorized amounts will be appropriated at the beginning of each fiscal year.

## **Direct Spending and Revenues**

**Titles I, II, and III.** The first two titles address the uses of the SSN in the public sector (federal, state, and local governments) and private sectors, respectively; the third deals with enforcement. Several provisions could affect the federal budget. Requiring birth records from all applicants for SSNs—as is already automatic in the hospital-based Enumeration at Birth program—and granting more law enforcement powers to the Inspector General of SSA, for example, might curtail fraudulent payments of benefits. Allowing SSA to impose civil monetary penalties and collect court-ordered restitution in cases of SSN fraud or misuse could boost governmental receipts. Similarly, allowing the Federal Trade Commission (FTC) to impose civil monetary penalties when businesses violate the new law would also raise receipts. Based on information from SSA and FTC staffs, CBO estimates that such budgetary effects would be negligible in the 2001-2010 period.

**Title IV.** The fourth title would tighten SSA's oversight of representative payees. About 5 million recipients of Social Security benefits (2 million adults and 3 million children) and 2 million recipients of Supplemental Security Income (SSI) benefits (1 million adults and 1 million children) collect these payments through representative payees. Typically, a family member serves as a representative payee. But especially for adult recipients, the payee may be a social service agency, an institution, or a similar organization. SSA monitors representative payees by requiring annual accounting reports and by conducting on-site reviews every three years of certain representative payees who serve a large number of beneficiaries. Title IV would direct SSA to certify annually that social service agencies meet licensing and bonding requirements and to conduct periodic on-site inspections of more representative payees. It would enhance SSA's ability to recover misused funds and to impose civil monetary penalties.

**TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 4857**

	By Fiscal Year, in Millions of Dollars				
	2001	2002	2003	2004	2005
<b>CHANGES IN DIRECT SPENDING OUTLAYS</b>					
Title IV. Provisions Relating to Representative Payees					
OASDI benefits (off-budget)	1	*	*	*	*
SSI benefits (on-budget)	1	*	*	*	*
Other Titles	*	*	*	*	*
Total, direct spending	2	*	*	*	*
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>					
Title I. Provisions Relating to the Social Security Account Number in the Public Sector					
Verify birth records (OASDI, off-budget)					
Estimated authorization level	0	18	19	19	20
Estimated outlays	0	16	17	19	19
Title II. Provisions Relating to the Social Security Account Number in the Private Sector					
FTC enforcement					
Estimated authorization level	3	3	3	3	3
Estimated outlays	3	3	3	3	3
Title IV. Provisions Relating to Representative Payees					
OASDI (off-budget)					
Estimated authorization level	0	7	7	8	8
Estimated outlays	0	7	7	8	8
SSI (on-budget)					
Estimated authorization level	0	3	3	3	3
Estimated outlays	0	3	3	3	3
Title V. Miscellaneous and Technical Amendments					
Department of Defense					
Estimated authorization level	0	-397	-353	-357	-360
Estimated outlays	0	-397	-353	-357	-360
Total					
Estimated authorization level	0	-366	-321	-325	-326
Estimated outlays	0	-368	-323	-325	-327

Continued

TABLE 1. Continued

	By Fiscal Year, in Millions of Dollars				
	2001	2002	2003	2004	2005
<b>CHANGES IN REVENUES</b>					
Estimated Revenues	*	*	*	*	*
<u>Memorandum:</u>					
Effect on outlays for offsetting receipts from eliminating intragovernmental payments by DoD					
OASDI (off-budget)	0	321	285	289	291
HI (on-budget)	0	76	68	68	69

NOTE: OASDI=Old-Age, Survivors, and Disability Insurance; SSI=Supplemental Security Income; HI=Hospital Insurance; FTC = Federal Trade Commission; DoD=Department of Defense.

\* = Less than \$500,000.

Most provisions of Title IV would have negligible effects on benefit payments or recoveries. Section 401, however, would direct SSA to pay beneficiaries any amounts that had been misused by an organizational representative payee, even if there had been no negligence on SSA's part. (Currently, such claimants must show negligence by SSA.) Representative payees misuse about \$3 million in benefits each year. Only about 10 percent of payees are organizations that would be affected by this provision, so CBO assumes that it would cost about \$300,000 a year. Because the provision would be retroactive to January 1, 1995, CBO estimates that it would cost \$2 million in 2001 and \$5 million over the 2001-2010 period.

**Title V.** The fifth title chiefly contains technical clarifications or minor changes to the Social Security Act. One of those provisions would have a small budgetary effect.

Members of the armed services receive cash pay plus other compensation such as housing, food, and uniform allowances. Under current law, they may get credit for an extra \$1,200 of earnings each year toward the calculation of their eventual Social Security benefits to reflect that noncash pay. Each year, DoD pays about \$300 million to the Old-Age, Survivors, and Disability Insurance trust funds and about \$75 million to the Hospital Insurance (Medicare Part A) trust fund to pay for those extra credits. H.R. 4857 would eliminate both the DoD payment and the resulting benefits except in very isolated cases of early death or disability. CBO estimates that the savings in benefit payments over the 2002-2010 period would be negligible.

## **Spending Subject to Appropriation**

Based on information from SSA, CBO judges that H.R. 4857 would cost the agency about \$30 million a year in administrative costs. Verifying birth records of roughly 1.7 million people each year who apply for an SSN outside of the Enumeration at Birth program would require an estimated 250 workyears each year and cost \$16 million to \$19 million annually. More rigorous oversight of representative payees, chiefly from conducting on-site inspections of a broader range of payees, would add about 130 workyears and cost \$10 million to \$11 million annually.

H.R. 4857 would define any document containing a Social Security number as a consumer report. Consumer reports are regulated by the Federal Trade Commission under the Fair Credit Reporting Act. Based on information from the FTC, CBO expects that the agency would have to hire new personnel in order to regulate the handling of documents containing Social Security numbers. CBO estimates that these new staff would cost about \$3 million per year.

DoD pays \$350 million to \$400 million a year to the Social Security and Hospital Insurance trust funds to reflect the taxes due on the value of noncash allowances. As discussed above, H.R. 4857 would end that practice in most cases. These are intragovernmental payments, however, so their elimination would have no net effect on the budget. If future appropriations were cut commensurately, discretionary spending would be lower by \$1.5 billion over the 2002-2005 period. But receipts to the trust funds would decline commensurately, as shown in the memorandum item in Table 1. Because that change in offsetting receipts would depend on future appropriation action, it is not considered a direct spending effect.

## **PAY-AS-YOU-GO CONSIDERATIONS**

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. (Spending for OASDI is not counted.) For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	1	0	0	0	0	0	0	0	0	0
Changes in receipts	0	0	0	0	0	0	0	0	0	0

\* = Less than \$500,000.

## ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 4857 contains a number of intergovernmental mandates as defined in the Unfunded Mandates Reform Act. Specifically, the bill would restrict or prohibit governmental agencies from:

- selling Social Security numbers;
- otherwise allowing access to SSNs by the public;
- displaying SSNs on checks or check stubs, and;
- using SSNs on driver's licenses or identification cards.

The extent to which state and local governments still use SSNs in their data and bookkeeping systems is unclear. In addition, the cost of altering such systems varies widely. Based on information from state and local governments and various interest groups representing them, however, CBO believes that the aggregate costs of those mandates would probably exceed the threshold established in UMRA (\$55 million in 2000, adjusted annually for inflation) in at least one year over the next five years.

Many state and local governments have reduced the use of SSNs in recent years, particularly on driver's licenses, and the sale of such numbers to non-governmental entities. However, several other uses of SSNs by governments would violate the prohibitions in the bill.

Most costly would be the prohibition against displaying SSNs on checks and check stubs and otherwise restricting public access to those numbers. Some states have already enacted laws protecting access to SSNs, and few alterations would have to be made in those states. Many other state and local governments, however, currently use SSNs to identify individuals for purposes such as property tax liens, court documents, income tax payment and refund data, motor vehicle registrations, and employee benefit records. For example, the state of Illinois includes SSNs on check stubs for income tax refunds, and the state of Pennsylvania includes SSNs on unemployment and state retirement system checks. The state of New York uses

SSNs as the default for sales tax identification numbers. In those and similar cases, the SSNs would have to be removed or alternative systems developed. Some governments also have laws allowing general access to public documents. By requiring governments either to implement new record-keeping systems (most likely involving computer reprogramming) or to audit documents made available to the public in order to avoid disclosing SSNs, H.R. 4857 would impose costs that are likely, in the aggregate, to be significant.

The bill would allow a three-year window for affected governments to alter their systems, and this delay would tend to lower costs and spread them over time. However, because of the large number of state and local governments (well over 80,000) in the United States, even inexpensive changes to individual systems would quickly add up to aggregate costs exceeding the threshold in UMRA. For example, even if only half of all governments were required to reprogram or audit documents, and each spent as little as \$5,000 on altering their systems or procedures over a three-year period, total costs would exceed \$55 million annually at some point over the next few years.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

H.R. 4857 would impose new private-sector mandates on persons who buy or sell personally identifiable information (sections 201 and 203), on firms that require customers to provide them with their Social Security number (section 202), and on representative payees that accept Social Security checks on behalf of beneficiaries (section 402). CBO has been unable to obtain sufficient data to estimate the aggregate direct cost of these mandates. However, we have sufficient information to conclude that the cost would significantly exceed the statutory threshold specified in UMRA (\$109 million in 2000, adjusted annually for inflation).

The Social Security number is the de facto unique and constant individual identifier that is used in the United States today. Most other identifiers either are not unique, such as a name, or can change, such as names or addresses. For example,

- 42 million people move each year;
- 3 million people change their last name each year;
- 6 million people have second homes and may use either address; and
- Tens of millions of people own businesses or use a business address in connection with their credit.

As a result, the most accurate method of combining information on individuals from different sources is to match the sources on the SSN. Also, the most reliable current method of accessing information about an individual from a database is to use the SSN.

In the long term, if use of the SSN were severely restricted, governments and commercial firms might develop another method of uniquely identifying individuals. However, such an effort would be costly and would take years to complete. Furthermore, current problems with identity theft and loss of privacy would transfer to the replacement identifier. In the short term, if use of the SSN were severely restricted, accessing information from large databases, such as those maintained by credit bureaus, would become more difficult and providers of information would undoubtedly have to increase the price for their services. In the short and medium term, the cost to information providers of maintaining and expanding their databases would rise. Consequently, the quality of these information sources would fall and there would be further pressure for providers to increase the prices for their services. The cost of most mandates in this bill is related to the added difficulty of accessing information in these databases without using an SSN, or to maintaining and expanding these databases without using an SSN.

Section 201 of the bill would make it unlawful for any person to sell or purchase an SSN in a manner that would put the information at risk of being used to commit fraud, deception, or crime, or put the individual at some risk of bodily, emotional, or financial harm. The Federal Trade Commission would be required to develop regulations that would govern these purchases and sales. A few activities, such as law enforcement, would be exempt from the regulations. Firms that disclose SSNs—for example, those that sell personally identifiable information over the Internet—would find some of their activities prohibited by FTC regulations.

Section 202 of the bill would make it an unfair trade practice for firms to refuse to do business with an individual if that individual did not provide their SSN. A person may now be asked to provide his or her SSN for such diverse activities as taking out an insurance policy, checking into a hospital, applying for store charge account, joining a club, or taking a college admissions test. This provision could make it much more difficult for a firm to obtain, for example, a credit history on a customer who is applying for credit but who declines to provide an SSN. It could also make it much more difficult to provide information that can be readily matched to other information. For example, college admissions testing organizations normally ask for the SSN so that their score reports to colleges can be easily matched to the other information in a student's admission file.

While CBO does not know how many people would not provide their SSN if the bill were enacted, the number of current transactions that require the SSN as a unique identifier is extremely large. Credit bureaus use the person's SSN as the unique identifier in their databases. In fact, they currently maintain credit files on 180 million adults, issue 900 million credit reports each year, and track roughly two billion transactions per month using the SSN as the identifier. Thus, while we do not have sufficient information to estimate the cost of this mandate, it could be very large.



Section 203 would strengthen the provisions of the Fair Credit Reporting Act (FCRA) by giving the SSN the same status as credit history information, thereby significantly restricting the permissible uses of SSN. From the perspective of the FCRA, the information about a consumer in the databases credit bureaus maintain can be divided into the credit header and the consumer report, which includes credit history. The credit header contains key identifying information, including the SSN, while the consumer report contains the information bearing on a consumer's credit worthiness, including income and payment histories. It is unlawful to disclose information in the consumer report unless it is for one of the listed permissible purposes specified in the law.

This provision would make it unlawful, for example, for a private detective to supply a person's SSN to an information broker in order to get information on that person's addresses. It would also be unlawful to sell data that include the SSN to information brokers such as those in the IRSG or to direct marketers. If such firms are not able to buy information that can be economically combined using an identifier such as the SSN, then the value of the remaining information they have would fall and the cost of maintaining it at a particular level of quality would rise.

A permissible purpose of a consumer report is one that is in accordance with the written instructions of the consumer, so a college admissions testing organization, for example, would have to obtain the written consent of test-takers to be able to provide the test-taker's SSN to colleges and universities along with their scores. Nevertheless, any attempt to get information about a consumer from an information broker by providing the consumer's SSN would become unlawful because disclosing the SSN would constitute a consumer report and the purpose—getting locating information—would not be a permissible one. The exception would be those cases in which the consumer provides written consent to the requestor.

This provision would have a particularly strong impact on private investigators, law firms, collection agencies, or any user of locating services because the requestor would not have the consumer's written consent to provide the SSN to the information broker. Providing other identifying information to the broker instead of the SSN would lead to higher charges for the services. Furthermore, the information the search returned would be less useful because it would sometimes be diluted with information on other consumers with the same identifying information or would not be based on records with the correct information.

One other mandate in the bill would be created by section 402. This provision would stiffen restrictions on nongovernmental, organizational representative payees. These organizations would be required to both obtain a license from the state they are located in and be bonded. This would impose a mandate on representative payees who under current law need only do one or the other. This provision would have a minimal aggregate cost on these organizations, however.

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